

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Patent Application of Charles A. Eldering.

Conf. No.:	3387	:	Group Art Unit:	1751
Appln. No.:	09/857,257	:	Examiner:	Nguyen, Tri V.
Filing Date:	01 June 2001	:	Attorney Docket No.:	T709-12
Title: Advertisement Auction System				

APPELLANT’S REPLY BRIEF TO THE EXAMINER’S ANSWER

In response to the Examiner’s Answer dated February 21, 2008, and further to the Appeal Brief filed November 30, 2007, Applicant hereby submits a Reply Brief in accordance with 37 C.F.R. §41.41 for the above-referenced application.

A Request for Oral Hearing under 37 C.F.R. §41.47 is submitted herewith.

This Reply Brief is being filed in response to the Examiner's Answer, dated February 21, 2008 (Examiner's Answer). All of the arguments set forth in the Appellant's Appeal Brief, filed November 30, 2007 (Appeal Brief), are incorporated herein by reference.

RESPONSE TO EXAMINER'S ARGUMENTS

1. The Combination of Feezell and Kramer Does Not Teach a Correlation Factor.

The Examiner argues that Feezell teaches "interactive communications between the seller and buyers such as the valuation data and correlation being available to the buyer prior to a bid submission." (Examiner's Answer, Page 26). The Examiner contends that Feezell combined with Kramer teaches a correlation factor transmitted to a bidder prior to making a bid. However, the resulting combination, while not teaching all the elements of the claims, also lacks motivation to combine and is inoperable.

The Examiner argues that Feezell teaches transmitting a correlation factor to an advertiser prior to receiving a bid. The Examiner's support for this contention is that Feezell teaches that a "broadcaster id can be correlated to other data sets stored on database 405." (column 6, lines 1-11). However, this correlating in Feezell does not provide a *correlation factor* as recited in the present claims. Rather, Feezell's correlation is used to structurally link information about a broadcaster to the broadcaster id. Since the broadcaster id simply identifies a specific broadcaster, (column 5, lines 64-67), no meaningful information is provided by calculating a correlation factor between the broadcaster id and any other data set. That is, in Feezell, the broadcaster id has no statistical relationship with any other data. In contrast, the correlation factor of the present claims is specific to the advertisement characterization and the consumer, both variables to which the advertisement opportunity corresponds, showing how closely an advertisement matches the consumer who will view the advertisement upon a winning bid.

The Examiner argues that combining the correlating of Feezell and the correlation factor of Kramer teaches a "correlation factor based on a more rigorous analytical and

mathematical foundation that includes consumer demographics and advertisement information.” However, because no analytical or mathematical correlation takes place in Feezell as discussed, this combination is not obvious. Furthermore, Kramer contains no discussion of transmitting the correlation factor to the advertiser so that the advertiser may use the data to decide on a bid. Therefore, even if Feezell and Kramer could be properly combined, the combination does not teach **transmitting a correlation factor** to the advertiser **prior to the advertiser transmitting a bid** for an advertisement opportunity.

The Examiner also contends that Feezell teaches “exchange of valuation data and correlations prior to a bidding by the buyer for a specific advertising opportunity.” (Examiner’s Answer, Page 33). As discussed, Feezell does not teach exchange of a “correlation factor” prior to bidding as recited in the present claims. While Feezell does provide valuation data, this data is different from the correlation factor recited in the claims. The valuation data of Feezell must be manually reviewed and synthesized by the bidder prior to deciding on a bid submission. Conversely, a “correlation factor” provides the bidder with a conclusive representation of the quality of the advertisement opportunity. As a result, valuation data of Feezell would not allow for a successful bid to be submitted in response to receiving a “correlation factor” as in the present claims.

2. The Combination of Feezell and Kramer Does Not Teach Transmitting an Advertisement Characterization.

The Examiner argues that “a reasonable interpretation of an advertisement characteristic is the type of advertisement or the advertised company/product thus Feezell teaches an advertisement characterization by the mere knowledge of the potential buyer or product advertisement.” (Examiner’s Answer, Page 28). Applicant respectfully disagrees. In Feezell, no information about the advertisement is transmitted until after the time slot has been purchased. Thus, a characteristic of the advertiser is the only data available to the opportunity provider in Feezell’s system. The characteristic of the

advertiser is a single data point related to an advertisement characterization, but cannot possibly be the complete advertisement characterization. The specification discusses that an “advertisement characterization” may be “a demographic characterization of an advertisement as well as a product preference characterization of the advertisement.” (Specification, page 4, lines 11-14). In other words, an “advertisement characterization” as recited in the present claims is a portrayal of the advertisement. The “advertisement characterization” allows for better targeting capabilities compared to a simple “characteristic” of the advertiser, because the advertisement characterization contains additional information on which to base the calculation of the correlation factor. Therefore, the Examiner’s assertion that a reasonable interpretation of an “advertisement characteristic” may be an “advertisement characterization” is improper.

Kramer is relied upon to teach a more rigorous mathematical foundation for calculating the correlation factor. Kramer uses data available in databases to target and personalize generic content (column 3, lines 50-57), but does not teach an advertisement characterization. In the section cited by Examiner, an object represented as a vector of real numbers is correlated. Kramer teaches characterizing an object by observing its use either directly or indirectly (column 9, line 66 – column 10, line 2). Such an object characterization does not teach an advertisement characterization (e.g., an advertisement for a product may have very little relation to the product itself). Thus, Kramer does not teach using an advertisement characterization in calculating a correlation factor. Accordingly, the combination of Feezell and Kramer does not teach or suggest transmitting an advertisement characterization.

3. There is No Proper Motivation to Combine the References

Applicants respectfully disagree that in combining Kramer, “applying an analytical and mathematical correlation factor that is based on the targeted consumer to Feezell would have been recognized by those of ordinary skill in the art.” (Examiner’s Answer, Page 27). Such a change is not obvious because it results in an inoperable

system. Any combination of Feezell and Kramer would not be able to apply a correlation factor based on the targeted consumer because the opportunity provider of Feezell is a broadcaster. Broadcasters have limited knowledge about the expected demographics of a time slot based on the content being presented, but have no knowledge about the actual consumer. Therefore, any correlation factor calculated in the combination would not be between an *advertisement and a consumer*, but between an advertisement and the expected demographic of a time slot. The Examiner further argues that Feezell and Kramer work on the same paradigm because “Feezell teaches a specific bidding embodiment.” (Examiner’s Answer, Page 31). While the specific time slots of Feezell allow the broadcaster to know general expected demographics for that time slot, such a system does not change the fact that the opportunity provider for the specific and non-specific time slots in Feezell has no knowledge of actual consumers that will see the advertisement. In a specific time slot, the opportunity provider has general demographic information for the content being presented but can not possibly know what consumers will actually watch the content. Thus, even if the correlation factor of Kramer could be applied to Feezell, the data necessary for calculating the correlation factor that is based on the targeted consumer would not be available.

Ultimately, Applicants’ previous arguments stand: the combination of Feezell and Kramer does not teach all elements of the pending claims. Specifically, at least the following elements are not taught by the combination:

- 1) transmitting an advertisement characterization from the advertiser to the opportunity provider; and
- 2) transmitting a correlation factor to the advertiser prior to submitting a bid.

Feezell teaches bidding on time slots without any analysis of targeting a particular advertisement to a consumer. Kramer teaches targeting an advertisement to a consumer from data collected by the opportunity provider, having no interaction with the advertiser. Therefore, the essence of the Examiner’s rejection is incorrect.

Conclusion

Applicants respectfully submit that the Examiner's rejections have been previously overcome, and that the application, including claims 1-9, 47-76 and 78-80, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejections and a Notice of Allowance are respectfully requested. Applicants respectfully request that the Board reverse the Examiner's rejections of the claims and remand this application for issue.

Respectfully submitted,

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